

**BEFORE THE ELEVATOR SAFETY BOARD
DEPARTMENT OF LABOR AND LICENSING
STATE OF ARKANSAS**

**IN RE: FORT SMITH LITTLE THEATRE, Inc. , 401 NORTH 6th STREET, FORT
SMITH, ARKANSAS 72913**

CONSENT ORDER

This matter came before the Elevator Safety Board on Thursday, May 20, 2021. The Petitioner, Fort Smith Little Theatre, Inc., by and through Nancy Blochberger on behalf of the theatre, seeks a variance with respect to a non-permitted dumbwaiter.

FINDINGS OF FACT:

1. The Petitioner is utilizing a “dumbwaiter” at its existing building that was installed when the building was constructed and operated without prior permitting or authorization at 401 North 6212 Center Street, Fort Smith, Arkansas. As soon as the owners became aware of the unlicensed and unpermitted dumbwaiter, they sought to bring the unit into code compliance. The dumbwaiter is used to ferry materials for theatrical performances. The existing dumbwaiter is heavily relied upon by the Petitioner.
2. The dumbwaiter is a residential-type conveyance but does have some commercial qualities. It is not equipped with a fused disconnect located near the dumbwaiter. It is also not equipped with an access door switch. However, the dumbwaiter is equipped with safety devices that are consistent with the ASME 17.1 Code including Type A safeties, safety operated switch, swing type landing doors and closed and locked type door locks.
3. The Chief Elevator Inspector of the Department of Labor and Licensing testified under oath that it was not necessary for the dumbwaiter to be removed or mandated to be brought

into full code compliance consistent with ASME A17.1-2007, because such a mandate would constitute an undue hardship with regard to cost and inconvenience for a conveyance that does not transport people.

4. The Chief Elevator Inspector, Department of Labor and Licensing, recommends, and the Petitioner agrees to the following conditions to ensure reasonable safety:

- a. The Petitioner will add a fused disconnect and will wire the dumbwaiter directly to the fused disconnect;
- b. The Petitioner will install an access door switch;
- c. The Petitioner will add a capacity plate at each hall station;
- d. The Petitioner will add "caution signs" at each hoist-way door;
- e. Dumbwaiter gearbox, cable, cable drum, safeties and cable sheaves will be inspected by a licensed Elevator Mechanic and any deficiencies that are discovered will be corrected;
- f. The hoisting cable will be re-socketed to the drum; and
- g. An acceptance test and inspection will be performed after the completion of these conditions.

CONCLUSIONS OF LAW:

5. The Board has authority to adopt administrative rules establishing minimum standards for the installation, construction, maintenance and operation of elevators pursuant to Ark. Code Ann. § 20-24-106(c) and (d).

6. The Board has the power to grant a variance from minimum standards when it is clearly evident that: 1) it is necessary to prevent undue hardship or existing conditions prevent

compliance with the literal requirements of the standards and 2) in the opinion of the board, reasonable safety will be secured. Ark. Code Ann. § 20-24-106(d).

7. In the present case, the Board concludes that the Agreed conditions in this Consent Order will allow the Petitioner to be granted a variance pursuant to Ark. Code Ann. §20-24-106 (d) because removal of the conveyance would create an undue hardship especially for a conveyance that cannot be used to transport people. Ark. Code Ann. §20-24-101(8)

8. The Board also concludes that reasonable safety will be secured by the conditions placed upon the grant of the variance.

THEREFORE, the Board grants a variance to Fort Smith Little Theatre, Inc. by and through their representative, Nancy Blochberger for authorization to permit the dumbwaiter with the aforementioned conditions precedent.

IT IS SO ORDERED.

ELEVATOR SAFETY BOARD

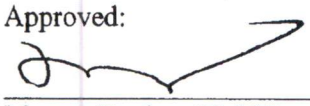
By: _____


Ralph T. Hudson, Chairman

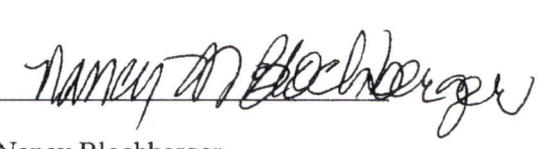
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Approved: _____



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